

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

Bky. No. 08-44465

In Re:

Insignia Development, LLC,
Debtor.

Randall L. Seaver,
Chapter 7 Trustee,

Plaintiff,

Adv. No. _____

vs.

Forest Creek Development II, LLC,
Defendant.

ADVERSARY COMPLAINT

Randall L. Seaver, Chapter 7 Trustee (“Trustee” or “Plaintiff”) of the Insignia Development, LLC bankruptcy estate (“Debtor”), as and for his Complaint against Defendant Forest Creek Development II, LLC (“Defendant”), states and alleges as follows

1. This adversary proceeding is a core proceeding under 28 U.S.C. § 157.
2. This Complaint is brought under Bankruptcy Rule 7001, and this action arises under 11 U.S. C. §§ 544, 547, 548, 550 and other applicable law. This Court has jurisdiction over this adversary proceeding. This adversary proceeding is authorized under 28 U.S.C. §§ 157 and 1334, Bankruptcy Rule 7001 and Local Rule 1070-1.
3. Upon information and belief, Defendant is a Minnesota limited liability company.
4. On September 2, 2008, an involuntary Chapter 7 Petition was filed against the Debtor (the “Petition Date”). The Order for relief was entered on September 24, 2008. The Court appointed Randall L. Seaver as Trustee.

5. Upon information and belief, Defendant was an "insider," as defined by 11 U.S.C. § 101(31), of Debtor.

FIRST CAUSE OF ACTION
(Avoidance of Transfer Pursuant to 11 U.S.C. § 547)

6. Within 90 days, or between 90 days and 1 year of the Petition Date, the Debtor transferred to the Defendant interest in real property legally described on the attached Exhibit A, the exact value of such transfer to be proven at trial (collectively, the "Transfer").

7. Plaintiff reserves the right to include within the Transfer any and all other pre-petition transfers which may be avoidable by Plaintiff under applicable law as may be disclosed upon further investigation.

8. At all times material herein, Defendant was a creditor of the Debtor.

9. The Transfer was made to or for the benefit of the Defendant.

10. The Transfer was made for, or on account of, an antecedent debt owed by the Debtor before such transfer was made.

11. The Transfer was made on or within 90 days, or between 90 days and 1 year before the Petition Date.

12. The Transfer was made while the Debtor was insolvent.

13. The Transfer enabled the Defendant to receive more than it would receive if:

- (a) the case were a case under Chapter 7 of the United States Bankruptcy Code;
- (b) the Transfer had not been made; and
- (c) the Defendant received payment on the debt it was owed to the extent provided by the Bankruptcy Code.

14. The Transfer to the Defendant is avoidable pursuant to 11 U.S.C. § 547.

SECOND CAUSE OF ACTION
(Avoidance of Transfer Pursuant to 11 U.S.C. §§ 544(b) and 548)

15. Plaintiff repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.

16. The Debtor made such Transfer or incurred such obligation with actual intent to hinder, delay or defraud entities to which the Debtor was or became, on or after the date that such Transfer was made or such obligation was incurred, indebted.

17. The Debtor whose property or whose interest in property was transferred in the Transfer received less than a reasonably equivalent value in exchange for such Transfer.

18. The Transfer was made (a) at a time when Debtor was engaged or was about to engage in business or transactions for which the remaining assets of Debtor were unreasonably small in relation to the business and transactions; (b) at a time when Debtor intended to incur, or believed or should reasonably have believed that he would incur, debts beyond his ability to pay as they became due; (c) at a time when Debtor was insolvent or; (d) with the result that Debtor became insolvent as a result of such Transfer.

19. Accordingly, the Transfer should be avoided and set aside as fraudulent under 11 U.S.C. §§ 544(b), 548 and state law.

THIRD CAUSE OF ACTION
(Recovery of Transfer Pursuant to 11 U.S.C. § 550)

20. Plaintiff repeats and realleges the allegations contained above in all prior paragraphs, as though fully set forth at length.

21. Defendant is the initial transferee of the Transfer.

22. Alternatively, if Defendant is not the initial transferee of the Transfer, Defendant is the immediate or mediate transferee of the initial transferee.

23. By reason of the foregoing, the Plaintiff is entitled to recover the Transfer pursuant to § 550 of the Bankruptcy Code.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that this Court enter an Order:

- A. Avoiding the Transfer described in this Complaint;
- B. Entering judgment in favor of Plaintiff and against Defendant for the value of the Transfer, the exact amount to be proven at trial, plus interest, Plaintiff's costs and disbursements and such attorney's fees and other expenses as the Court may allow;
- C. Granting Plaintiff such other relief as this Court deems just and proper.

Dated this 22nd day of September, 2010.

/e/ Mary Kay Mages

Michael S. Dove #214310

Mary Kay Mages #0339313

Charles W. Hanson #0387438

GISLASON & HUNTER LLP

Attorneys for Plaintiff

2700 South Broadway

P. O. Box 458

New Ulm, MN 56073-0458

Phone: 507-354-3111

Fax: 507-354-8447

EXHIBIT A

Forest Creek Development II, LLC

PID #	Legal Description
103213001030	Lot 3, Block 1, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213002040	Lot 4, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213002060	Lot 6, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213002070	Lot 7, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213002100	Lot 10, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213002110	Lot 11, Block 2, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213003040	Lot 4, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213003060	Lot 6, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213003070	Lot 7, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213003090	Lot 9, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213003100	Lot 10, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213003120	Lot 12, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213003130	Lot 13, Block 3, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213004010	Lot 1, Block 4, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213004050	Lot 5, Block 4, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213005170	Lot 17, Block 5, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006010	Lot 1, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota

PID #	Legal Description
103213006020	Lot 2, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006030	Lot 3, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006040	Lot 4, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006050	Lot 5, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006070	Lot 7, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006100	Lot 10, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006140	Lot 14, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006150	Lot 15, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006190	Lot 19, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
103213006290	Lot 29, Block 6, Sundance Ridge Second Addition, City of Buffalo, Wright County, Minnesota
112038001010	Lot 1, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001020	Lot 2, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001030	Lot 3, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001040	Lot 4, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001050	Lot 5, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001060	Lot 6, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001070	Lot 7, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001080	Lot 8, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001090	Lot 9, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota

PID #	Legal Description
112038001100	Lot 10, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001110	Lot 11, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001120	Lot 12, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001130	Lot 13, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001140	Lot 14, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001150	Lot 15, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001160	Lot 16, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001170	Lot 17, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001180	Lot 18, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001190	Lot 19, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001200	Lot 20, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001210	Lot 21, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001220	Lot 22, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001230	Lot 23, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001240	Lot 24, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001250	Lot 25, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001260	Lot 26, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001290	Lot 29, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001300	Lot 30, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota

PID #	Legal Description
112038001310	Lot 31, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001320	Lot 32, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001330	Lot 33, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001340	Lot 34, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001350	Lot 35, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001360	Lot 36, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001370	Lot 37, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001380	Lot 38, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001400	Lot 40, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001430	Lot 43, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001440	Lot 44, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001450	Lot 45, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001460	Lot 46, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001470	Lot 47, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038002010	Lot 1, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038002020	Lot 2, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038002030	Lot 3, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038002050	Lot 5, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038002060	Lot 6, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota

PID #	Legal Description
112038002070	Lot 7, Block 2, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038003010 ?-owner Kevin Pawlitschek	Lot 1, Block 3, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038003020	Lot 2, Block 3, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038004010	Lot 1, Block 4, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038004020	Lot 2, Block 4, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038005010	Lot 1, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038005020	Lot 2, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038005030	Lot 3, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038005040	Lot 4, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038005050	Lot 5, Block 5, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006010	Lot 1, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006020	Lot 2, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006030	Lot 3, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006040	Lot 4, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006050	Lot 5, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006060	Lot 6, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006070	Lot 7, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006080	Lot 8, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006090	Lot 9, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota

PID #	Legal Description
112038006100	Lot 10, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006110	Lot 11, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006120	Lot 12, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006140	Lot 14, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006150	Lot 15, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006160	Lot 16, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006170	Lot 17, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006180	Lot 18, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006190	Lot 19, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006200	Lot 20, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038006220	Lot 22, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
102038006230	Lot 23, Block 6, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038007010	Lot 1, Block 7, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038007020	Lot 2, Block 7, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008020	Lot 2, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008040	Lot 4, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008050	Lot 5, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008060	Lot 6, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008080	Lot 8, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota

PID #	Legal Description
112038008110	Lot 11, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008120	Lot 12, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008160	Lot 16, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008170	Lot 17, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008210	Lot 21, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008250	Lot 25, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008270	Lot 27, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
114038008440	Lot 44, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008450	Lot 45, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008460	Lot 46, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008480	Lot 48, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008490	Lot 49, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008500	Lot 50, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008510	Lot 51, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008520	Lot 52, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008530	Lot 53, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008540	Lot 54, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038008550	Lot 55, Block 8, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota
112038001390	Lot 39, Block 1, Forest Creek (Part Cic. No. 94), City of Montrose, Wright County, Minnesota